

REMARKS/ARGUMENTS

Reconsideration of this Application and entry of this Amendment are respectfully requested. Claims 1-3, 5, 7-13, 15, and 17-24 are pending in this application, with claims 1 and 11 being the independent claims.

Statement Regarding Common Ownership

The present application (U.S. Application No. 10/671,946) and U.S. Application No. 10/543,477 (published as U.S. Published Application Publication No. 2006/0260967) were, at the time the invention of Application No. 10/671,946 was made, owned by Medtronic Vascular, Inc.

35 U.S.C. §103 Rejections

Claims 1-3, 5, 7-13, 15, and 17-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Published Patent Application Publication No. 2003/0083616 to Lee *et al.* (in view of U.S. Published Patent Application Publication No. 2006/020967 to Clarke *et al.* (hereinafter "Clarke") and U.S. Patent No. 5,881,534 to Almqvist *et al.* Applicant respectfully traverses the rejection.

The Clarke application qualifies as prior art to the present application only under 35 U.S.C. §102(e). Further, as noted above, the Clarke application and the present application were commonly owned at the time of the invention of the subject matter of the present application. Under 35 U.S.C. §103(c), subject matter which qualifies as prior art only under one or more of subsection (e), (f), or (g) of 35 U.S.C. §102, shall not preclude patentability under 35 U.S.C. §103. Accordingly, the Clarke application cannot be used as prior art to the present application in a 35 U.S.C. §103 rejection. Applicant therefore respectfully requests that the rejection be withdrawn.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (978) 739-3075 (Eastern Time).

Respectfully submitted,

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